IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc.No. 74402-M of 2006

DATE OF DECISION: NOVEMBER 28, 2006

Nachhatar Kaur

...PETITIONER

VERSUS

State of Haryana and others

...RESPONDENTS

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Mr. Charanjit Chadha, Advocate,
for the petitioner.

...

The petitioner has filed this petition under Section 482 Cr.P.C. for transfer of the investigation in case FIR No.109 dated 26.9.2005 registered under Sections 306/34/201/404/411/120-B IPC at Police Station Naggal, Ambala, to C.B.I.

I have heard the counsel for the petitioner and gone through the record of the case.

The petitioner is the widow of deceased Harbans Singh, who died under mysterious circumstances and his dead body was found from a canal. After the investigation, the police submitted the challan in the aforesaid case under Sections 306/34/404/411/120-B IPC against the accused. It is the case of the petitioner that actually it was a case of murder and the police did not interrogate the accused Harbilas, Balwinder Singh, Chuhar Singh and Bachan Ram, who played an active role in the murder of the petitioner's husband. Therefore, the investigation of the case be transferred to the CBI.

I have been informed by the State counsel that after filing of the challan, the case is now fixed before the trial Court for framing of the charge against the accused. He further submits that in this petition, no mala fide has been alleged against the local police for not conducting the investigation fairly. Only it has been stated that the police is trying to save Manager Harbilas and Balwinder Singh as some influential persons are behind the accused persons to save them.

After hearing the counsel for the petitioner and in view of the aforesaid facts and circumstances of the case, I do not find any ground to transfer the investigation of the aforesaid case to the CBI, particularly when the challan has been filed against the accused and the matter is pending before the competent court for framing of the charge.

Dismissed.

However, it will be open for the petitioner to argue at the time of framing of the charge that there is sufficient material for framing of the charge under Section 302 IPC or at a subsequent stage to apply for alteration of the charge in case some incriminating evidence comes against the accused.

November 28, 2006 (SATISH KUMAR MITTAL)
vkg JUDGE